

1 Defendant, AMSTON SUPPLY, INC., (“AMSTON” or “Responding Party”),
2 for itself alone, files its First Amended Answer to the Complaint, by admitting,
3 denying, and alleging as follows:

4 1. Responding Party is without sufficient information as to the truthfulness
5 of this paragraph and on that basis denies the allegations therein.

6 2. Responding Party is without sufficient information as to the truthfulness
7 of this paragraph and on that basis denies the allegations therein.

8 3. Responding Party is without sufficient information as to the truthfulness
9 of this paragraph and on that basis denies the allegations therein.

10 4. Responding Party is without sufficient information as to the truthfulness
11 of this paragraph and on that basis denies the allegations therein.

12 5. Responding Party is without sufficient information as to the truthfulness
13 of this paragraph and on that basis denies the allegations therein.

14 6. Responding Party is without sufficient information as to the truthfulness
15 of this paragraph and on that basis denies the allegations therein.

16 7. Responding Party is without sufficient information as to the truthfulness
17 of this paragraph and on that basis denies the allegations therein.

18 8. Responding Party is without sufficient information as to the truthfulness
19 of this paragraph and on that basis denies the allegations therein.

20 9. Responding party denies that Defendant Kilty resides in Wisconsin.
21 Responding party admits Kilty was doing business in the County of San Bernardino
22 on the date of the loss complained of by Plaintiffs.

23 10. Responding party admits Defendant FBN is a Wisconsin limited liability
24 company. Responding party admits FBN was doing business in the County of San
25 Bernardino through Defendant Kilty, while Kilty operated under its authority as a
26 motor carrier. Responding party is without sufficient information as to the
27 truthfulness of the remaining allegations in this paragraph and on that basis denies the
28 allegations therein.

1 11. Responding party admits Defendant Marden is a Wisconsin limited
2 liability company. Responding party is without sufficient information as to the
3 truthfulness of the remaining allegations in this paragraph and on that basis denies
4 the allegations therein.

5 12. Responding party admits Defendant AMSTON is a Wisconsin
6 corporation. Responding party is without sufficient information as to the truthfulness
7 of the remaining allegations in this paragraph and on that basis denies the allegations
8 therein.

9 13. Responding party is without sufficient information as to the truthfulness
10 of this paragraph and on that basis denies the allegations therein.

11 14. Responding party is without sufficient information as to the truthfulness
12 of this paragraph and on that basis denies the allegations therein.

13 15. Responding party admits that Defendant Kilty was operating under
14 Defendant FBN's operating authority at the time of this loss. Responding parties
15 denies the remaining allegations in this paragraph.

16 16. Responding party is without sufficient information as to the truthfulness
17 of this paragraph and on that basis denies the allegations therein.

18 17. Responding party is without sufficient information as to the truthfulness
19 of this paragraph and on that basis denies the allegations therein.

20 18. Responding party is without sufficient information as to the truthfulness
21 of this paragraph and on that basis denies the allegations therein.

22 19. Admit that Defendant Marden was the owner of the tractor involved in
23 this loss.

24 20. Admit that Defendant AMSTON was the owner of the trailer involved in
25 this loss.

26 21. Deny.

27 22. Responding party admits that Defendant Kilty was operating under
28 Defendant FBN's operating authority at the time of this loss. Responding party

1 denies the remaining allegations in this paragraph.

2 23. Responding party is without sufficient information as to the truthfulness
3 of this paragraph and on that basis denies the allegations therein.

4 24. Responding party is without sufficient information as to the truthfulness
5 of this paragraph and on that basis denies the allegations therein.

6 25. Responding party is without sufficient information as to the truthfulness
7 of this paragraph and on that basis denies the allegations therein.

8 26. Responding party is without sufficient information as to the truthfulness
9 of this paragraph and on that basis denies the allegations therein.

10 27. Responding party admits that Defendant Kilty was operating under
11 Defendant FBN's operating authority at the time of this loss. Responding party
12 denies the remaining allegations in this paragraph.

13 28. Responding party is without sufficient information as to the truthfulness
14 of this paragraph and on that basis denies the allegations therein.

15 29. Responding party admits the bus struck the tractor trailer combination.
16 Responding party is without sufficient information as to the truthfulness of the
17 remaining allegations in this paragraph and on that basis denies the allegations
18 therein.

19 30. Responding party is without sufficient information as to the truthfulness
20 of this paragraph and on that basis denies the allegations therein.

21 31. Deny.

22 32. Responding party incorporates by this reference its responses to
23 Paragraph numbers 1-31 as though fully set forth herein.

24 33. Admit.

25 34. Admit.

26 35. Deny.

27 36. Deny.

28 37. Responding party denies that Defendants FBN, Kilty and/or AMSTON

1 were negligent or careless. Responding party is without sufficient information as to
2 the truthfulness of the remaining allegations in this paragraph and on that basis denies
3 the allegations therein.

4 38. Deny.

5 39. Deny

6 40. Responding party is without sufficient information as to the truthfulness
7 of this paragraph and on that basis denies the allegations therein.

8 41. Deny.

9 42. Responding party is without sufficient information as to the truthfulness
10 of this paragraph and on that basis denies the allegations therein.

11 43. Deny.

12 44. Responding party incorporate by this reference their responses to
13 Paragraph numbers 1-31 as though fully set forth herein.

14 45. Admit.

15 46. Responding party is without sufficient information as to the truthfulness
16 of this paragraph and on that basis denies the allegations therein.

17 47. Admit.

18 48. Responding party is without sufficient information as to the truthfulness
19 of this paragraph and on that basis denies the allegations therein.

20 49. Responding party is without sufficient information as to the truthfulness
21 of this paragraph and on that basis denies the allegations therein.

22 50. Responding party is without sufficient information as to the truthfulness
23 of this paragraph and on that basis denies the allegations therein.

24 51. Responding party is without sufficient information as to the truthfulness
25 of this paragraph and on that basis denies the allegations therein.

26 52. Responding party incorporates by this reference its responses to
27 Paragraph numbers 1-51 as though fully set forth herein.

28 53. Deny.

1 54. Deny.

2 55. Deny.

3 56. Responding party denies Kilty violated the *Vehicle Code*. Responding
4 party is without sufficient information as to the truthfulness of the remaining
5 allegations in this paragraph and on that basis denies the allegations therein.

6 57. Responding party denies Kilty violated the *Vehicle Code*. Responding
7 party is without sufficient information as to the truthfulness of the remaining
8 allegations in this paragraph and on that basis denies the allegations therein.

9 58. Responding party denies Kilty violated the *Vehicle Code*. Responding
10 party is without sufficient information as to the truthfulness of the remaining
11 allegations in this paragraph and on that basis denies the allegations therein.

12 59. Responding party denies Kilty violated the *Vehicle Code*. Responding
13 party is without sufficient information as to the truthfulness of the remaining
14 allegations in this paragraph and on that basis denies the allegations therein.

15 **AFFIRMATIVE DEFENSES**

16 60. Plaintiffs' Complaint fails to set forth facts sufficient to constitute a
17 cause of action against this Responding party.

18 61. Plaintiffs' Complaint fails to set forth facts sufficient to establish an
19 award for punitive damages against this Responding party.

20 62. That the resulting injuries and death from this loss, if any, were
21 proximately caused and contributed to by the negligence of Plaintiffs' decedent in
22 that he so negligently failed to exercise due care and caution for his own safety.

23 63. That Plaintiffs are barred from recovery against these responding parties
24 and that any damages proven to have been sustained by the Plaintiffs herein, would
25 be the direct and proximate result of the independent negligence and unlawful
26 conduct of independent third parties whether named or not named, or their agents,
27 and not any act or omission on the part of these responding Defendants.

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1 64. Under and pursuant to the terms of California *Civil Code* Section 1413.1
2 through 1413.5, Plaintiffs are precluded from recovery against these responding
3 Defendants for any non-economic damages except those allocated to Responding
4 party in direct proportion to its fault, if any such fault or damages there be.

5 **GRAVES AMENDMENT**

6 65. The liability of MARDAN is limited and pre-empted under the so-called
7 Graves Amendment as a lessor of vehicles engaged in interstate commerce. 49 U.S.C.
8 30106, et seq.

9 Wherefore Responding party prays that Plaintiffs' claims be denied in their
10 entirety and that Responding party be awarded court costs and such other and further
11 relief as the Court may deem appropriate.

12 DATED: November 10, 2015

Respectfully submitted,

13
14 WILLIAMSON LAW GROUP

15
16 By: /s/ John S. Williamson

John S. Williamson

17 *jwilliamson@williamsonlawgroup.net*

18 Attorneys for Defendants,
19 STEVE KILTY; AMSTON SUPPLY,
20 INC., FBN TRANSPORTATION, LLC;
21 MARDAN TRANSPORTATION, LLC
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DEMAND FOR JURY

DEMAND IS HEREBY MADE by Defendant, AMSTON SUPPLY, INC., that the above-captioned action be tried by a jury.

DATED: November 10, 2015

Respectfully submitted,

WILLIAMSON LAW GROUP

By: /s/ John S. Williamson

John S. Williamson

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Attorneys for Defendants,
STEVE KILTY; AMSTON SUPPLY,
INC., FBN TRANSPORTATION, LLC;
MARDAN TRANSPORTATION, LLC

CERTIFICATE OF SERVICE

I hereby certify that on 11/10/15, I electronically transmitted the following document(s) to the Clerk's Office using the CM-ECF System for filing and transmittal of Notice of Electronic filing to the following CM-ECF registrants:

DOCUMENT(S) SERVED:

FIRST AMENDED ANSWER OF DEFENDANT, AMSTON SUPPLY, INC., TO PLAINTIFFS' COMPLAINT (Answer to Complaint filed 7/6/15, Doc. No. 46); DEMAND FOR JURY TRIAL

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27 **AMERICA**

28
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